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November 6, 2007

Via Hand Delivery

Jeff S. Jordan, Esquire
Supervisory Attorney
Complaints Examination and Legal Administration
Federal Election Commission
Washington, D.C. 20463

Re: **Jim Davis for Governor, Inc. 2006**
Matter MUR 5936

Dear Mr. Jordan:

This firm represents Jim Davis for Governor, Inc. ("DFG"), an inactive Florida Corporation and Marc Sasser, the inactive corporation's former treasurer (collectively "Respondents"). Please let this letter and attachments serve as Respondents' response to the October 15, 2007, amendment to a complaint (the "Complaint") filed by June Maxam, that claims DFG and an unnamed treasurer allegedly violated the Federal Election Campaign Act of 1971 as amended ("the Act"). Mr. Sasser received this letter and Complaint on or about October 26, 2007.

DFG was the Florida campaign organization for Jim Davis' campaign for Governor in the State of Florida in 2006. Since filing its final termination report with the Florida Department of State on February 6, 2007, DFG has not conducted any campaign, election, or political activities. DFG's Florida State election activity is solely governed by Florida State Election Law, Chapter 106, Fla. Stat. (2006).

The allegations against Respondents by Ms. Maxam are based on the equivocal supposition that: "it appears that the monies paid to her from the federal TerriPAC were reimbursements for her travel expense and office work in conjunction with the Davis Campaign." (emphasis supplied).

The complete allegations by Ms. Maxam germane to DFG are as follows:

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According to the information filed with the Florida Division of Elections, Ms. Black was employed as a staff member for the Jim Davis for Governor Campaign in Florida, using the same condo number. In the filing with the FEC, it is stated that the expenses paid to her were not in conjunction with any candidate as in the space for candidate, it is stated N/A. However, on information and belief, she was employed by the Davis Campaign. It appears that the monies paid to her from the federal TerriPAC were reimbursements for her travel expense and office work in conjunction with the Davis campaign. As such, they at least were in-kind contributions and should have been reported as such to the Davis Campaign and the filings with the Florida Division of Elections for the Florida TerriPAC and would have exceeded the limits allowed pursuant to Florida Statutes of \$500.00 per election per candidate. In fact, on the same page in which two disbursements are shown made to Danielle Black, the federal TerriPAC also shows a disbursement of \$500.00 to the Florida Campaign for Davis.

Ms. Maxam's Complaint does not allege a specific violation of the Act. The Complaint merely alleges possible violations of unnamed state statutes. The conduct that Ms. Maxam claims serves as the basis of the Complaint does not constitute Federal Election Activity under the Act. Rather, the alleged wrongful activity concerns conduct regulated only by Florida State election law, specifically Fla. Stat. § 106.08 (limiting contributions to state candidate campaigns to \$500.00 per election). No federal statute, CFR or other rule governs what a state gubernatorial election campaign can give or receive.

The Federal Election Commission has exclusive primary jurisdiction with respect to civil enforcement of the Federal Election Campaign Act. See, e.g., 2 U.S.C.A. § 437(a)(1) - (9) and U.S. v. Tony, 433 F. Supp. 620 (E.D. La. 1977). The Federal Election Campaign Act does not govern contributions to or expenditures from state gubernatorial campaigns. Rather, because Jim Davis was a federal officeholder while he was a candidate for Florida's Governor, 2 U.S.C. § 441i(e) explicitly exempts contributions to an officeholder's such as DFG non-federal election from federal limits. DFG is not registered as a federal election entity. As such, the only entity with jurisdiction over DFG's activities for the purposes of contribution limits in § 106.08 is the State of Florida. Ms. Maxam, at best, surmises only what "appears to" be a violation of state law. Thus, the FEC does not have any jurisdiction over this issue in Florida in the context that Ms. Maxam alleges here. See Generally Buckley v. Valeo, 424 U.S. 1 (1976) and McConnell v. Federal Election Commission, 540 U.S. 93 (2003).

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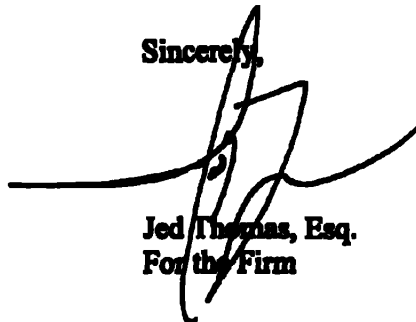
The complaint as to Jim Davis for Governor must be dismissed for lack of jurisdiction.

As to the merits of the complaint, Davis for Governor responds as follows. Danielle Black was never an employee of DFG. Ms. Black was an employee of the Florida Democratic Party. There is absolutely no Florida state law, or rule, which prohibits anyone such as Ms. Black from working for multiple entities during an election cycle. More importantly, the expenses paid to Ms. Black as referenced by Ms. Maxam were not in conjunction with DFG as surmised by Ms. Maxam. The monies alleged by Ms. Maxam that came from TerriPAC were not reimbursements for travel expenses and office work for DFG. The attachments provided by Ms. Maxam prove that Ms. Black was separately reimbursed by DFG and the Florida Democratic Party for all work performed for those respective entities. See Affidavit of Jonathan Brill, attached hereto as Exhibit "A" and incorporated by reference.

No violation of Florida law occurred and Ms. Maxam has set forth no evidence that any Florida law was violated. The Complaint is baseless as to Respondents. Ms. Maxam's Complaint is pure conjecture as applied to Respondents. Proof of the conjecture is set forth in Ms. Maxam's own hedging by her hypothesis that "it appears" that a violation of state law may have occurred. In fact, the Complaint as written does not contain any specific evidence that Respondents committed any sort of violation. Accordingly, based on the fact that the Complaint only speculates that there was a violation of state law outside of the FEC's jurisdiction, the Complaint should be dismissed on its merits.

Respondents respectfully request that the Complaint be dismissed summarily as Ms. Maxam does not allege Respondents violated the Act, much less provide the FEC with evidence that Respondents violated the Act. Should you need anything further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jed Thomas", is written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke extending to the left.

Jed Thomas, Esq.
For the Firm

JET/jsb
Enclosures

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AFFIDAVIT

Before me, the undersigned authority, on this date personally appeared, JONATHAN BRILL ("Affiant"), who being first duly sworn, deposes and says:

1. Affiant is over the age of 18, competent and has personal knowledge of the facts contained herein.

2. Affiant is a resident of Tampa, Florida.

3. Affiant was the Deputy Campaign Manager and Deputy Treasurer of Jim Davis For Governor, Inc., responsible for paying staff and reimbursing expenses for campaign related activities.

4. Affiant has reviewed the September 11, 2007 election complaint signed by June Maxam and attachments.

5. Danielle Black during no time period in 2006 was employed directly by Jim Davis for Governor, Inc. Danielle Black was employed by the Florida Democratic Party.

6. The monies that Ms. Maxam claims "appear" to be paid to Danielle Black from the Federal TerriPAC were not reimbursements for travel expenses and office work in conjunction with the Jim Davis for Governor, Inc. Jim Davis for Governor, Inc. separately reimbursed Danielle Black as referenced in the attachments to the complaint.

FURTHER AFFIANT SAYETH NOT.

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Jonathan Brill
JONATHAN BRILL

STATE OF FLORIDA
COUNTY OF Hillsborough

BEFORE ME, on this 5th day of November, 2007, personally appeared JONATHAN BRILL, who is personally known by me or has produced _____ as identification, and states that the above is true and correct to the best of his/her knowledge and belief.

(SEAL)



Tammy Keene
NOTARY - Signature

Tammy Keene
NOTARY - Typed/Printed

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